2005 FEB -3 PM 3: 332

JEANNE MICKS, CLERK

BY: Laka Mala

FAVOUR MOORE & WILHELMSEN, P.A. Post Office Box 1391
Prescott, AZ 86302-1391
928/445-2444
David K. Wilhelmsen, #007112
Marguerite Kirk, #018054

Attorneys for Plaintiffs

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IN THE SUPERIOR COURT OF ARIZONA
COUNTY OF YAVAPAI

JOHN B. CUNDIFF and BARBARA C.) CUNDIFF, husband and wife; BECKY NASH,) a married woman dealing with her separate) property; KENNETH PAGE and KATHRYN) PAGE, as Trustee of the Kenneth Page and) Catherine Page Trust,) Plaintiffs,

VS.

DONALD COX and **CATHERINE COX**, husband and wife, Defendants.

Case No

Division 1

PLAINTIFFS' OBJECTION TO DEFENDANTS' SUPPLEMENTAL AUTHORITIES RE: COURT'S ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL

Plaintiffs, John and Barbara Cundiff, Becky Nash, and Kenneth and Kathryn Page, by and through undersigned counsel, hereby oppose Defendants' impermissible filing of a purported "supplemental authorities" concerning Plaintiffs' motion to compel the production of Defendants' income tax returns for the period 1998 to present as ordered by this Court on January 31, 2005.

The purpose of filing supplemental authorities with a court is to bring to the court's attention recently discovered pertinent authorities or judicial decisions released subsequent to completion of briefing on the matter that directly bear on the issues before the court. Supplemental authorities are *not* a vehicle to re-urge argument or case law that could have, or should have, been argued by the party in its moving papers or oral argument.

In this instance, Defendants' supplemental authorities is little more than an inappropriately captioned motion for reconsideration. Defendants are impermissibly attempting to re-argue a matter fully briefed and ruled upon by this Court.

FEB - 4 2005

Therefore, Plaintiffs request that this Court refuse to allow Defendants to again argue that 1 which they have fully had an opportunity to assert to this Court. Defendants have had ample 2 3 opportunity to raise argument and persuasive authority to the Court, and having failed to do so in a manner proscribed by the rules of civil procedure, cannot attempt to do so now under the guise of 4 filing "supplemental authority" with the Court. Defendants' "supplemental authority" is an 5 impermissible motion borne simply of their displeasure with the Court's grant of Plaintiffs' motion 6 7 to compel production of Defendants' tax returns from 1998 to present.

RESPECTFULLY SUBMITTED this 3rd day of February, 2005.

FAVOUR, MOORE & WILHELMSEN, P.A.

David K. Wilhelmsen Marguerite Kirk

Attorneys for Plaintiffs

Original of the foregoing filed 14 this 3rd day of February, 2005 with:

Clerk, Superior Court of Arizona

16 Yavapai County

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120 S. Cortez St. Prescott, Arizona 86302 17

A copy hand-delivered this 3rd day of February, 2005 to: 18

Honorable David L. Mackey 19

Division One

20 Superior Court of Arizona

Prescott, Arizona

and, a copy mailed this 3rd day of February, 2005 to:

22 Mark Drutz

23 Jeffrey Adams

MUSGROVE, DRUTZ & KACK, P.C.

1135 Iron Springs Road 24 Prescott, Arizona 86302

25 David K. Wilhelmsen

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